IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A. No. 3114 of 2003

Date of Decision: 14.9.2006

Guru Ravi Dass Sabha, Pundri through Shri Naresh Kumar its President

...Appellant.

Versus

Lajpat Rai

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr. Arvind Singh, Advocate for the appellant.

Mr. Ram Chander, Advocate for the respondent.

AJAY KUMAR MITTAL, J.

This regular second appeal filed by the defendant is directed against the judgment and decree dated 8.2.2003 passed by the lower appellate court vide which the findings recorded vide judgment and decree dated 8.8.2001 by the trial court were affirmed.

The facts of the case as pleaded in the plaint are that the plaintiff is owner of agricultural land measuring 15 kanals 7 marlas as detailed in para 1 of the plaint as per jamabandi for the year 1990-91 situated within the revenue estate of village Pundri, District Kaithal. The defendant had taken unauthorized possession of 9 marlas of land out of the said land. It was pleaded that the encroachment is on the western portion of the two field numbers mentioned therein and the plaintiff being owner is entitled to the possession of the same from the defendant.

Upon notice, the defendant filed written statement by taking

various preliminary objections. It was pleaded that the plaintiff was not the owner of the land and the defendant had not taken unauthorized possession of 9 marlas of the land as alleged. It was further pleaded that the defendant was in possession of the land for the last more than 25 years and that the land was under the possession of the defendant by way of adverse possession. The other averments made in the plaint were also denied.

On the pleadings of the parties, the trial court framed the following issues:-

1. Whether the plaintiff is owner of the suit land? OPP
2. If issue no.1 is proved then whether the plaintiff is entitled to possession of the suit land? OPP
3. Whether suit is time barred? OPD
4. Relief.

The trial court took issues No.1 and 2 together being interconnected and by appreciating the evidence came to the conclusion that the plaintiff is owner of the suit land and, therefore, is entitled to its possession. Accordingly, the suit filed by the plaintiff was decreed vide judgment and decree dated 8.8.2001. On appeal, the lower appellate court affirmed the findings recorded by the trial court on issues No.1 and 2 and dismissed the appeal vide judgment and decree dated 8.2.2003.

Learned counsel for the appellant has submitted that the courts below have failed to appreciate the evidence led by the parties and wrongly decreed the suit filed by the plaintiff. On the other hand, learned counsel for the respondent has supported the judgments and decrees passed by the courts below.

After hearing the learned counsel for the parties and perusing the record, this Court is of the opinion that the findings of fact recorded by the courts below do not suffer from any illegality or perversity. Learned

counsel for the appellant could not pin point any error in the concurrent findings of fact recorded by the courts below which may call for interference by this Court in the regular second appeal. No question of law, much less a substantial question of law arises in this appeal.

In view of the above, finding no merit in this appeal, the same is hereby dismissed.

September 14, 2006 **(AJAY KUMAR MITTAL)**
gbs **JUDGE**